

R156. Commerce, Occupational and Professional Licensing.

R156-15A. State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-101. Title.

This rule is known as the "State Construction Code Administration and Adoption of Approved State Construction Code Rule."

R156-15A-102. Definitions.

The following definitions supplement the definitions in Title 15A, State Construction and Fire Codes Act:

(1) "Building permit" means, for determining the building permit surcharge under Subsection 15A-1-209(5)(a), a warrant, license, or authorization to build or construct a building or structure or any part thereof.

2 "Building permit fee" means, for determining the building permit surcharge under Subsection 15A-1-209(5)(a), fees assessed by a state agency or state political subdivision for the issuance of permits for construction, alteration, remodeling, repair, and installation, including building, electrical, mechanical, and plumbing components.

(3) "Permit number" as used in Section 15A-1-209, means the standardized building permit number under Section R156-15A-220.

(4) "Refuses to establish a method of appeal" under Subsection 15A-1-207(3)(b) means that the compliance agency:

(a) has not adopted a formal written method of appealing uniform building standard matters in accordance with generally recognized standards of due process; or

(b) does not convene an appeals board and makes a decision within 90 days from the date the appeal is properly filed with the compliance agency.

R156-15A-103. Authority.

This rule is adopted by the Division under the authority of Subsection 15A-1-204(6), Section 15A-1-205 and Subsection 58-1-106(1)(a) to enable the Division to administer Title 15A, State Construction Code Administration and Adoption of Approved State Construction Code Rule.

R156-15A-201. Advisory Peer Committees Created - Membership - Duties.

(1) There is created under Subsections 58-1-203(1)(f) and 15A-1-203(10)(c), the following advisory peer committees to the Uniform Building Codes Commission:

(a) the Education Advisory Committee consisting of ten members, which shall include:

(i) a factory built housing representative;

(ii) a design professional;

(iii) a general contractor;

(iv) an electrical contractor;

(v) a mechanical or plumbing contractor;

(vi) an educator; and

(vii) four inspectors, one from each of the specialties of plumbing, electrical, mechanical, and general building;

(b) the Plumbing and Health Advisory Committee consisting of nine members;

(c) the Structural Advisory Committee consisting of seven members;

(d) the Architectural Advisory Committee consisting of seven members;

(e) the Fire Protection Advisory Committee consisting of five members, which shall join with the Fire Advisory and Code Analysis Committee of the Utah Fire Prevention Board to form the Unified Code Analysis Council;

(f) the Mechanical Advisory Committee consisting of seven members; and

(g) the Electrical Advisory Committee consisting of seven members.

(2) Each committee member shall have direct knowledge or involvement in the area of code described in the title of that committee.

(3) The duties and responsibilities of the committees shall include:

(a) reviewing codes proposed for adoption or approval as assigned by the Division in collaboration with the Commission;

(b) reviewing requests for amendments to the adopted codes or approved codes as assigned to each committee by the Division with the collaboration of the Commission; and

(c) submitting recommendations concerning the reviews under Subsections (a) and (b).

(4) The duties and responsibilities of the Education Advisory Committee shall include:

(a) reviewing and making recommendations regarding funding requests that are submitted; and

(b) reviewing and making recommendations regarding budget, revenue, and expenses of the education funds under Subsections 15A-1-209(5)(c)(i) and (ii).

(5)(a) The duties and responsibilities of the Unified Code Analysis Council shall include:

(i) meeting as directed by the Utah Fire Prevention Board or the Uniform Building Code Commission; and

(ii) meeting as needed to review fire prevention and building code issues that require definitive and specific analysis.

(b)(i) At its meeting in the last quarter of the calendar year, the Unified Code Analysis Council shall elect one member as chair and another member as vice chair, to serve for one-year terms on a calendar year basis.

(ii) The chair or vice chair shall report to the Utah Fire Prevention Board or the Commission the Unified Code Analysis Council's recommendations on fire and building codes.

R156-15A-202. Code Amendment Process.

Under Section 15A-1-206, the procedures under which requests for amendments to codes shall be filed with the Division and recommended or declined for adoption are as follows:

- (1) A request to amend adopted codes or approved codes shall be submitted to the Division on forms provided by the Division.
- (2) The processing of requests for code amendments shall be in accordance with Division policies and procedures.

R156-15A-210. Compliance with Codes - Appeals.

If the Commission is required to act as an appeals board under Subsection 15A-1-207(3)(b), the following shall regulate the convening and conduct of the appeals board:

(1)(a) The appellant may petition the Commission to act as the appeals board by filing a request for agency action as a formal adjudicative proceeding under Subsection 63G-4-201(3)(a) and Sections R151-4-202 and R151-4-203. A request by other means shall not be considered and shall be returned to the appellant with appropriate instructions.

(b) The appellant shall attach to the request:

(i) a copy of the final written decision of the compliance agency interpreting or applying the code that is the subject of the dispute; or

(ii) if the appellant has requested but has not received a timely final written decision, an affidavit to this effect.

(c) The request shall be filed with the Division no later than 30 days following the issuance of the compliance agency's disputed written decision.

(2) The compliance agency shall file a written response to the request within 20 days after the filing of the request. The request and response shall be provided to the Commission in advance of any hearing to properly frame the disputed issues.

(3) Except for the time period in Subsection (7), the time periods in this section may, upon a showing of good cause, be modified by the presiding officer.

(4) The Commission shall convene as an appeals board within 45 days after a request is properly filed.

(5) Upon the convening of the Commission as an appeals board, the board members shall determine if a member of the board has a conflict of interest that would preclude the member from fairly hearing and deciding the appeal. If the board determines that a conflict does exist, the member may attend the proceeding but may not participate in the proceeding.

(6) The hearing shall be a formal hearing held in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) Decisions relating to the application and interpretation of the code by a compliance agency board of appeals:

(a) shall be binding only for the specific individual case; and

(b) do not require Commission approval.

R156-15A-220. Standardized Building Permit Number.

Under Section 15A-1-209, each compliance agency issuing a permit for construction in Utah shall use the standardized building permit numbering system in a form adopted by rule. There are no additional requirements to those specified in Section 15A-1-209.

R156-15A-230. Building Code Training Fund Fees and Factory Built Housing Fees.

(1) Under Subsection 15A-1-209(5)(a), on April 30, July 31, October 31, and January 31 of each year, each state agency and each state political subdivision that assesses a building permit fee shall:

(a) file with the Division a report of building fees and surcharge for the immediately preceding calendar quarter; and

(b) remit 85% of the amount of the surcharge collected to the Division.

(2) Under Subsection 15A-1-209(5)(c), the Division shall allocate and deposit the monies received under Subsection 15A-1-209(5)(a)(ii) into the following funding accounts:

(a) 30% to the Division's Building Code Inspector Training Fund, to be held, administered, and distributed pursuant to Section R156-15A-231 to provide education regarding codes and code amendments to building inspectors;

(b) 10% to the Division's Building Code Construction-Related Training Fund, to be held, administered, and distributed pursuant to Section R156-15A-231 to provide education regarding codes and code amendments to individuals licensed in construction trades or related professions; and

(c) 60% to the Office of the Property Rights Ombudsman's Land Use Fund.

(3) Under Subsection 58-56-17.5(2)(c), the Division shall hold, administer, and distribute a portion of the monies in the Factory Built Housing Fees Account pursuant to Section R156-15A-231 to provide education for factory built housing.

(4) A Department of Commerce employee may not participate in the administration, selection, or payment of grants to an organization under Section R156-15A-231 or R156-15A-232 if the employee:

(a) is in a leadership position with the entity, including membership on a board of directors or the equivalent;

(b) is an employee of the entity or has received payment of any kind from the entity in the last five years; or

(c) has any other relationships with the entity or individuals affiliated with the entity that could lead to a reasonable question about the employee's impartiality.

R156-15A-231. Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account.

Under Subsections 15A-1-209(5)(c) and 58-56-17.5(2)(c), and Section R156-15A-230, the following procedures, standards, and policies are established for the administration of the Building Code Inspector Training Fund, the Building Code Construction-Related Training Fund, and the Factory Built Housing Fees Account:

(1) The Division may not approve or deny education grant requests from a separate fund or account until the Education Advisory Committee has considered and made its recommendations on the requests.

(2) Appropriate funding expenditure categories include:

(a) for the Building Code Inspector Training Fund or the Factory Built Housing Fees Account, grants in the form of reimbursement funding to the following organizations that administer code-related training or factory built housing educational events, seminars, or classes:

- (i) schools, colleges, universities, departments of universities, or other institutions of learning;
- (ii) construction trade associations;
- (iii) professional associations or organizations; and
- (iv) governmental agencies;

(b) for the Building Code Construction-Related Training Fund, grants in the form of reimbursement funding to the following organizations that administer code-related training events, seminars, or classes:

(i) construction trade associations; or

(ii) professional associations;

(c) costs or expenses incurred as a result of code events, seminars, or classes directly administered by the Division;

(d) expenses incurred for the salary, benefits, or other compensation and related expenses resulting from the employment of a Board Secretary;

(e) office equipment and associated administrative expenses required for the performance of the duties of the Board Secretary, including computer equipment, telecommunication equipment and costs and general office supplies; and

(f) other related expenses as determined by the Division.

(g) Gift cards, door prizes, and the cost of food and food services provided to training participants are not appropriate funding expenditure categories, and may not be paid or reimbursed from any fund.

(3) The following procedure shall be used for submission, review, and payment of funding grants:

(a)(i) A funding grant applicant shall submit a completed application on Division forms;

(A) at least 15 days before the meeting at which the request is to be considered; and

(B) before the training event.

(ii) An application that does not comply with Subsection (3)(a) may be denied.

(b) Payment of approved funding grants shall be made as reimbursement after:

(i) the approved event, class, or seminar has been held; and

(ii) the required receipts, invoices, and supporting documentation, including proof of payment if requested by the Division or Committee, have been submitted to the Division.

(c) Approved funding grants shall be reimbursed only for eligible expenditures that have been executed in good faith with the intent to ensure the best reasonable value.

(d)(i)(A) A Request for Reimbursement of an approved funding grant shall be submitted to the Division within 60 days following the approved event, class, or seminar, unless an extenuating circumstance occurs.

(B) Written notice shall be given to the Division of an extenuating circumstance.

(ii) Failure to submit a Request for Reimbursement within 60 days shall result in non-payment of approved funds, unless an extenuating circumstance has been reviewed and accepted by the Division.

(4) The Committee shall consider the following in determining whether to recommend to the Division approval of a proposed funding request:

(a) the fund balance available;

(b) if the proposed request meets the overall training objectives of the fund, including the need for training:

(i) on the subject matter;

(ii) in the geographical area where the training is offered; and

(iii) on new codes being considered for adoption;

(c) if the grant applicant agrees to charge a cost for the training event, class, or seminar that is uniform across categories of attendees;

(d) the earlier record of the program sponsor in providing codes training, including if:

(i) the subject matter taught was appropriate;

(ii) the instructor was appropriately qualified and prepared; and

(iii) the program sponsor followed appropriate and adequate procedures and requirements in providing the training and submitting requests for funding;

(e) costs of the facility, including:

(i) the location of a facility or venue, or the type of event, seminar, or class;

(ii) the suitability of the facility or venue for the anticipated attendance, or in connection with additional non-funded portions of an event or conference;

(iii) the duration of the proposed event, seminar, or class; and

- (iv) if the proposed cost of the facility is reasonable compared to the cost of alternative available facilities;
- (f) the estimated cost for instructor fees, including:
 - (i) a reimbursement rate for instruction activities not to exceed \$150 per instruction hour without further review and approval by the Committee, and with preparation time, event coordination, course development costs, staff time, and travel time not separately reimbursable;
 - (ii) the experience or expertise of the instructor in the proposed training area;
 - (iii) the quality of training based upon events, seminars or classes that have been previously taught by the instructor;
 - (iv) the drawing power of the instructor, meaning the ability to increase the attendance at the proposed educational event, seminar, or class;
 - (v) travel expenses; and
 - (vi) if the proposed cost for the instructor or instructors is reasonable compared to the costs of similar events, seminars, or classes;
- (g) the estimated cost of advertising materials, brochures, registration, and agenda materials, including:
 - (i) printing costs that may include creative or design expenses;
 - (ii) whether printed materials comply with Subsection (4)(b); and
 - (iii) delivery or mailing costs;
- (h) other reasonable and comparable cost alternatives for each proposed expense item;
- (i) other information the Committee reasonably believes may assist in evaluating a proposed expenditure; and
- (j) a total reimbursement rate of the lesser of \$10 per student hour or the cost of the approved actual expenditures.

(5) The Division, after consideration and recommendation of the Committee based upon the criteria in Subsection (4), may reimburse the following reasonable costs in addition to the lesser of \$10 per student hour or the cost of the approved actual expenditures:

- (a) text books, code books, or code update books;
- (b) cost of one Division licensee mailing list per provider per two-year renewal period;
- (c) cost incurred to upload continuing education hours into the Division's online registry for contractors, plumbers, electricians, or elevator mechanics; and
- (d) cost of advertising materials, brochures, registration and agency materials, including:
 - (i) printing costs, which may include creative or design expenses; and
 - (ii) delivery or mailing costs.

(6) Joint function.

(a) "Joint function" means a proposed event, class, seminar, or program that provides code or code-related training or factory built housing education, and education or activities in other areas.

(b) Only the prorated portions of a joint function that apply to the purposes of a separate fund are eligible for a funding grant from that fund.

(c) In considering a proposed funding request that involves a joint function, the Committee shall consider if:

- (i) the expenses subject to funding are reasonably prorated for the costs directly related to the purposes of the separate fund; and
- (ii) the education being proposed will be reasonable and successful in the training objective in the context of the entire program or event.

(7) Advertising materials, brochures, and agenda or training materials for a Building Code Training funded event, seminar, or class shall include a statement that acknowledges that partial funding of the program has been provided by the Utah Division of Occupational and Professional Licensing from the 1% surcharge funds on building permits.

(8) Advertising materials, brochures, and agenda or training materials for a Factory Built Housing Fees Account funded educational event, seminar, or class shall include a statement that acknowledges that partial funding of the training program has been provided by the Utah Division of Occupational and Professional Licensing from surcharge fees on factory built housing sales.

(9) If an approved event or joint event is not held, no amount is reimbursable except for the costs described in Subsection (5)(d).

R156-15A-401. Adoption - Approved Codes.

Under Subsection 15A-1-204(6)(a), and subject to the limitations of Subsection 15A-1-204(6)(b), the following codes or standards are incorporated by reference and approved for use and adoption by a compliance agency as the construction standards that may be applied to existing buildings in the regulation of building alteration, remodeling, repair, removal, seismic evaluation, and rehabilitation in the state:

- (1) the 1997 edition of the Uniform Code for the Abatement of Dangerous Buildings (UCADB) promulgated by the International Code Council;
- (2) ASCE 31-03, Seismic Evaluation of Existing Buildings, promulgated by the American Society of Civil Engineers; and
- (3) ASCE/SEI 41-06, the Seismic Rehabilitation of Existing Buildings, promulgated by the American Society of Civil Engineers, 2007 edition.

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